IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Crl.MC.No. 3419 of 2007()

CP.48/2007 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE

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PETITIONER: ACCUSED:

SHAJU, S/O.USMAN, AGED 33 YEARS,
MAMAMENTAKATH HOUSE, BEYPORE, CLAICUT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT AND STATE:

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1. SUB INSPECTOR OF POLICE, BEPORE POLICE STATION, KOZHIKODE.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

BY P.P.SRI.P.RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3419 of 2007

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Dated this the 14th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 395 read with 149 IPC. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal proceedings has been registered. The petitioner was not arrested at the crime stage or thereafter. Consequent to the non-appearance of the petitioner, coercive processes have been issued against the petitioner by the learned Magistrate in the committal proceedings. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful. Though he resides 40 ms away from the Beypore Police Station, the petitioner was never informed of the registration of the case or pendency of the proceedings against him. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for

bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE